IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 2192/1991
(Purna Ram & anr. Vs. State & Ors.)

Date : 17.11.2006

HON'BLE MR. BHAGWATI PRASAD, J.

Mr. R.R. Nagori for the petitioners
Mr. O.P. Boob for the State
Mr. K.R. Choudhary for the respondents.
Mr. Anil Bachhawat]

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Heard the learned counsel for the parties.

This writ petition is filed by the petitioner alleging that vide Annex.1, his khatedari was declared in the year 03.10.69 by the court of ACM, Barmer. Another suit which was filed by certain public spirited persons before the SDM, Barmer was though decreed but challenge to that decree was made in the court of Revenue Appellate Authority but the Revenue Board reversed the order of trial court dismissing the suit and the suit was decreed in favour of the petitioner. Thus, there are two decrees in favour of the petitioner declaring him as khatedars of the land in question. In support of the arguments, the learned counsel for the petitioner has relied upon a Division Bench decision of this Court in thematter of Budhdan Vs. Board of Revenue & Ors. reported in 2004(3) DNJ (Raj.) 1330.

Learned counsel for the respondent Municipal Board argued that the Panchayat was not party to any one of the decrees, therefore, the same is not binding on the Panchayat. The land has been entered in

Jamabandi in the name of Panchayat in the year 2057 and in that regard, Annex.R3/5 has been produced. Once the Gram Panchayat Hathitala has been entered as khatedar tenant in the Jamabandi in Samvat year 2057-2060 and Gram Panchayat was not a party to the proceedings, no decree can bind it. The Gram Panchayat is in possession of the land right from the beginning. There is a regular suit filed in between the parties pending before the ACM. In that view of the matter, when a regular suit is pending, interference in writ jurisdiction is not called for.

I have considered the rival submissions and have perused the record. The declaration of khatedari for the years when the land has been recorded in the revenue record as Government land appears to be mis-placed but in any case, now the Gram Panchayat, Hathitala is in possession of the land and in turn, public utility buildings have come over it. When a regular suit is pending before the court of ACM, it would not be appropriate for this Court to pass any orders in favour of the petitioner. The case relied upon by the petitioner is distinguishable and would not apply to the facts of the present case. The parties will abide by the final decision of the revenue proceedings.

With these observations, the writ petition is disposed of.

(BHAGWATI PRASAD), J.

bjsh